

REMARKS/ARGUMENTS

Claims 1-32 were previously pending. As noted above, claims 1, 3-5, 7-9, 11-13, 15-17, 19-21, 23-25, 27-29, and 31-32 have been amended and claims 6, 14, 22, and 30 have been canceled without prejudice to, or disclaimer of, the subject matter recited therein. Support for these amendments may be found throughout the Specification.¹ Thus, claims 1-5, 7-13, 15-21, 23-29, and 31-32 are now pending.

Applicants respectfully request reconsideration of this application based on the following remarks.

Drawing Objections

The Office Action, on page 2, objects to the drawings because "Figures 1-2 should be labeled with descriptive legends, e.g. NPDU (network protocol data unit)." Applicants respectfully traverse this objection as follows.

In the drawings, suitable descriptive legends may be used "where necessary for understanding of the drawings. They should contain as few words as possible."² Applicants respectfully submit the legends of Figures 1 and 2 sufficiently describe the transfer of data depicted in the figures, as supported by the Specification. For example, the Specification defines NPDU as network protocol data units.³ Accordingly, Applicants respectfully request withdrawal of the drawing objection.

Claim Objections

Claim 14 is objected to because of informalities. Claims 7-8, 15-16, 23-24 and 31-32 are objected to under 37 C.F.R. 1.75(c) as being in improper form.

Applicants have amended the claims to obviate these objections.

Therefore, based on the foregoing, Applicants respectfully request that the Examiner withdraw the objection to claims 7-8, 14-16, 23-24 and 31-32.

¹ See, e.g., Specification, page 18, lines 7-12 and Figs. 2a and 2b.

² See, e.g., 37 C.F.R. 1.84 (c) and M.P.E.P. § 608.2 v

Claim Rejections – 35 USC § 112

Claims 1-6, 9-14, 17-22 and 25-30 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse this rejection.

The claims have been amended to obviate the rejection. Therefore, based on the foregoing, Applicants respectfully request that the Examiner withdraw the rejection of claims 1-6, 9-14, 17-22 and 25-30 under 35 USC § 112, second paragraph.

Claim Rejections – 35 USC § 102

Claims 1, 9, 17 and 25 are rejected under 35 USC § 102(e) as being anticipated by Le et al. (U.S. Patent No. 7,028,094). To the extent the rejection remains applicable to the claims as amended, Applicants respectfully traverse this rejection as follows.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that “each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”⁴

Independent claim 1 recites a data transfer procedure for transferring data of a data sequence between a transmitting entity and a receiving entity, which entities each comprise a higher data handling layer and a lower data handling layer, the procedure including at least the following combination of features: “sending a confirmation of receipt of the at least one of the plurality of segments from the lower data handling layer of the transmitting entity to the higher data handling layer of the transmitting entity based on the acknowledgement; wherein the higher data handling layer of the transmitting entity is arranged to retain the data unit until such time as an at least implied acknowledgement of receipt of earlier segments in the sequence is received from the receiving entity by the lower data handling layer of the transmitting entity; determining by the higher data handling layer of the transmitting entity that an earlier segment relative to the at least one of the plurality of segments in the sequence is not confirmed as being received by the

¹ See, e.g., Specification, page 5, lines 5-25 and page 15, lines 1-5

⁴ See, e.g., *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (quoting *Verdegan Bros. Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

receiving entity; and retransmitting, based on the determining, the entire data unit via a second transmission link between the transmitting entity and the receiving entity."

Le discloses "a retransmission scheme for data packets for which an acknowledgment of receipt was not received at the transmitter."⁵ However, Le fails to disclose or suggest "determining by the higher data handling layer of the transmitting entity that an earlier segment relative to the at least one of the plurality of segments in the sequence is not confirmed as being received by the receiving entity; and retransmitting, based on the determining, the entire data unit via a second transmission link between the transmitting entity and the receiving entity," as recited in amended claim 1. In contrast, Le discloses retransmitting the data that was "not acknowledged,"⁶ not "the entire data unit," as recited in claim 1.

For at least the above reasons, Applicants submit that claim 1 is allowable over the cited reference. Applicants submit claims 9, 17 and 25 are also allowable for the similar features recited therein.

Further, claims 2-5, 7-8, 10-13, 15-16, 18-21, 23-24, 26-29 and 31-32, which depend from allowable claims 1, 9, 17 and 25, respectively, are likewise allowable over the cited reference, as well as for the additional features recited therein.

Therefore, based on the foregoing, Applicants respectfully request that the Examiner withdraw the rejection of claims 1, 9, 17 and 25 under 35 USC § 102(e) as being anticipated by Le et al.

Claim Rejections – 35 USC § 103

Claims 2-3, 5-6, 10-11, 13-14, 18-19, 21-22, 26-27 and 29-30 are rejected under 35 USC § 103(a), as being obvious over Le et al. in view of Miklos (U.S. Patent No. 6,621,796). To the extent the rejection remains applicable to the claims as amended, Applicants respectfully traverse this rejection as follows.

Applicants believe the Examiner's rejection, as indicated on page 6 of the Office Action, regards Miklos (U.S. Patent No. 6,621,796), not U.S. Patent No. 6,301,249, whose named inventor is Mansfield. Applicants are traversing the rejection based upon this understanding.

⁵ See, e.g., Le, Col. 4, lines 8-10

To establish a *prima facie* case of obviousness, all of the claimed features must be taught or suggested by the references and there must be some suggestion or motivation, in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.⁷

As discussed above, Le fails to disclose or suggest the above features recited in the claims. Further, Miklos fails to teach the above features, and therefore, fails to cure the above noted deficiency of Le.

Therefore, based on the foregoing, Applicants respectfully request that the Examiner withdraw the rejection of claims 2-3, 5-6, 10-11, 13-14, 18-19, 21-22, 26-27 and 29-30 under 35 USC § 103(a) as being obvious over Le et al. in view of Miklos.

CONCLUSION

In light of these remarks, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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⁷ *Id.* at Col. 3, lines 1-2

⁸ MPEP, section 2142.